

INITIAL STATEMENT OF REASONS

- a) Specific Purpose of the Regulations and Factual Basis for Determination that Regulations Are Necessary

Section 101218.1 (Title)

Specific Purpose:

The purpose of this amendment is to add to the title of this section “and Parental and Authorized Representative's Rights.”

Factual Basis:

This amendment is necessary because the title should reflect that this section includes not only admission procedures but also a list of parent and authorized representative's rights. The amendment will make it easier for parents, authorized representatives, and licensees to locate this information in the regulations.

Section 101218.1(a)(1)

Specific Purpose:

The purpose of this amendment is to add the phrase "child care" for consistency and clarity.

Factual Basis:

This amendment is necessary to clarify that this section only applies to child care centers.

Section 101218.1(a)(2)

Specific Purpose:

The purpose of this amendment is to correct a grammatical error and to add the phrase "parent or" for clarity and consistency.

Factual Basis:

This amendment is necessary to clarify that parents and authorized representatives are entitled to specified information.

Section 101218.1(a)(2)(A)

Specific Purpose:

The purpose of this amendment is to make an editorial change and to add the phrase "child care" for clarity and consistency.

Factual Basis:

This amendment is necessary to clarify that these regulations apply to child care centers and to correct a grammatical error.

Section 101218.1(a)(2)(B)

Specific Purpose:

The purpose of this amendment is to correct a grammatical error and to add the phrases "parent or" and "child care" for clarity and consistency.

Factual Basis:

This amendment is necessary to clarify that parents are entitled to specified information and to clarify that these regulations apply to child care centers.

Section 101218.1(b)

Specific Purpose:

The purpose of this amendment is to split existing Section 101218.1(b) into Sections 101218.1(b) and (b)(1) and to add to proposed Section 101218.1(b) the phrases "at the time of acceptance of each child in care," "parent or," and "that include, but are not limited to, the following."

Factual Basis:

This amendment is necessary for consistency and clarity in the reformatting of this section and to specify that parents and authorized representatives are to be informed of their rights by the licensee at the time that their child is accepted into care.

Section 101218.1(b)(1)

Specific Purpose:

The purpose of this amendment is to inform parents and authorized representatives of children in any child care center, at the time of acceptance of each child in care, of their right to enter and inspect the child care center.

Factual Basis:

This amendment is necessary to specify that the licensee shall inform parents and authorized representatives of their right to enter and inspect the child care center. This right is now listed under Section 101218.1(b) along with other parental and authorized representatives rights information that were previously only listed in the Health and Safety Code. These requirements are necessary so that licensees, the public, parents, and authorized representatives may be able to locate in one area of the regulations, all of the parental and authorized representatives rights information.

Section 101218.1(b)(2) (New)

Specific Purpose:

The purpose of this section is to inform parents and authorized representatives of children in any child care center, at the time of acceptance of each child in care, of their right to file a complaint against the licensee with the local licensing office.

Factual Basis:

This section is necessary to specify that the licensee shall inform parents and authorized representatives of their right to file a complaint against a licensee with the local licensing office in accordance with Health and Safety Code Section 1596.853. This right is listed under Section 101218.1(b) along with other parental and authorized representatives rights information that were previously only listed in the Health and Safety Code. These requirements are necessary so that licensees, the public, and parents may be able to locate in one area of the regulations, all of the parental and authorized representatives rights information.

Section 101218.1(b)(3) (New)

Specific Purpose:

The purpose of this section is to inform parents and authorized representatives of children in any child care center, at the time of acceptance of each child in care, of their right to review the child care center's public file kept by the local licensing office.

Factual Basis:

This section is necessary to specify that the licensee shall inform parents and authorized representatives of their right to review the child care center's public file kept by the local licensing office in accordance with Health and Safety Code Section 1596.859. This right is listed under Section 101218.1(b) along with other parental and authorized representatives rights information that were previously only listed in the Health and Safety Code. These requirements are necessary so that licensees, the public, authorized representatives and parents may be able to locate in one area of the regulations, all of the parental and authorized representatives rights information.

#### Section 101218.1(b)(4) (New)

##### Specific Purpose:

The purpose of this section is to inform parents and authorized representatives of children in any child care center, at the time of acceptance of each child in care, of their right to review at the child care center, reports of licensing visits and substantiated complaints against the licensee made during the last three years.

##### Factual Basis:

This section is necessary to specify that the licensee shall inform parents and authorized representatives of their right to review at the child care center, reports of licensing visits and substantiated complaints against the licensee made during the last three years in accordance with Health and Safety Code Section 1596.859. This right is listed under Section 101218.1(b) along with other parental and authorized representatives rights information that were previously only listed in the Health and Safety Code. These requirements are necessary so that licensees, the public, parents and authorized representatives may be able to locate in one area of the regulations, all of the parental and authorized representatives rights information.

#### Section 101218.1(b)(5) (New)

##### Specific Purpose:

The purpose of this section is to inform parents and authorized representatives of children in any child care center, at the time of acceptance of each child in care, of their right to complain to the local licensing office and inspect the child care center without discrimination or retaliation.

##### Factual Basis:

This section is necessary to specify that the licensee shall inform parents and authorized representatives of their right to complain to the licensing office and inspect the child care center without discrimination or retaliation in accordance with Health and Safety Code Section 1596.857. This right is listed under Section 101218.1(b) along with other parental and authorized representatives rights information that were previously only listed in the Health and Safety Code. These requirements are necessary so that licensees, the public, parents and authorized representatives may be able to locate in one area of the regulations, all of the parental and authorized representatives rights information.

#### Section 101218.1(b)(6) (New)

##### Specific Purpose:

The purpose of this section is to inform parents and authorized representatives of children in any child care center, at the time of acceptance of each child in care, of their right to request in writing that a parent not be allowed to visit the child or take the child from the child care center pursuant to a court order.

##### Factual Basis:

This section is necessary to implement Health and Safety Code Section 1596.857 to protect children in child care facilities from being taken by a parent in violation of a court order. This right is listed under Section 101218.1(b) along with other parental and authorized representatives rights information that were previously only listed in the Health and Safety Code. These requirements are necessary so that licensees, the public, parents and authorized representatives may be able to locate in one area of the regulations, all of the parental and authorized representatives rights information.

#### Section 101218.1(b)(7) (New)

##### Specific Purpose:

The purpose of this section is to inform parents and authorized representatives of children in any child care centers, at the time of acceptance of each child in care, of their right to receive upon request of the name, address, and telephone number of the local licensing office.

##### Factual Basis:

This section is necessary to specify that the licensee shall inform parents and authorized representatives of their right to receive notification of the name, address, and telephone number of the local licensing office in accordance with Health and Safety Code Section 1596.874. This right is listed under Section 101218.1(b) along with other parental and authorized representatives rights information that were previously only listed in Health and Safety Code. These requirements are necessary so that licensees, the public, parents and authorized representatives may be able to locate in one area of the regulations, all of the parental and authorized representatives rights information.

#### Section 101218.1(b)(8) (New)

##### Specific Purpose:

The purpose of this section is to inform parents and authorized representatives of children in any child care center, at the time of acceptance of each child in care, of their right to be informed by the licensee, upon request, of the name of any adult associated with the child care center, who has been granted a criminal record exemption, and the type of his or her

association to the child care center. In addition, the licensee is to inform the parents and authorized representatives that the name of the person may also be obtained by contacting the local licensing office.

Factual Basis:

As a result of a lawsuit filed against the CDSS by CBS Broadcasting Inc., and in accordance with the Court of Appeal of the State of California, Second Appellate District's decision filed August 21, 2001, the Department will now inform the public, upon request, the name of anyone who has been granted a criminal record exemption and the child care center with which the individual is associated.

These regulations would provide that parents and authorized representatives of children in child care centers have immediate access to information about child care staff who have been granted a criminal record exemption, from either the Department or the licensee so that they are able to make informed decisions regarding the placement and continued care of their children in child care centers.

This right is listed under Section 101218.1(b) along with other parental and authorized representatives rights. These requirements are necessary so that licensees, the public, parents, and authorized representatives may be able to locate in one area of the regulations, all of the parental and authorized representatives rights information.

Section 101218.1(c) (New)

Specific Purpose:

The purpose of this section is to inform parents and authorized representatives of their right to specified information and that these rights must be posted in a prominently, publicly accessible area in the child care center at all times.

Factual Basis:

As a result of a lawsuit filed against the CDSS by CBS Broadcasting Inc., and in accordance with the Court of Appeal of the State of California, Second Appellate District's decision filed August 21, 2001, the Department will now inform the public, upon request, the name of anyone who has been granted a criminal record exemption and the child care center with which the individual is associated.

These regulations would provide that parents and authorized representatives of children in child care centers have immediate access to information about child care staff who have been granted criminal record exemption, to allow them to make informed decisions regarding the placement and continued care of their children in child care facilities.

These requirements are necessary so that licensees, the public, parents and authorized representatives, may be able to locate in one area of the regulations, all of the parental and authorized representatives rights information. Licensees must post the PUB 393 (8/02),

Child Care Center Notification of Parents' Rights Poster in a prominent, publicly accessible area in the child care center at all times.

The California Department of Social Services (CDSS) is incorporating by reference, pursuant to the California Code of Regulations, Title 1, Chapter 1, Section 20, the PUB 393, Child Care Center Notification of Parents' Rights Poster, Rev. 8/02. This form is not printed in the California Code of Regulations or the CDSS Manual of Policies and Procedures because it would be cumbersome and impractical. However, this form is available during the 45-day public comment period from the Department at (916) 657-2586.

#### Section 101218.1(d) (New)

##### Specific Purpose:

The purpose of this section is to require that parents and authorized representatives are provided with information about the caregiver background check process.

##### Factual Basis:

As a result of a lawsuit filed against the CDSS by CBS Broadcasting Inc., and in accordance with the Court of Appeal of the State of California, Second Appellate District's decision filed August 21, 2001, the Department will now inform the public, upon request, the name of anyone who has been granted a criminal record exemption and the child care center with which the individual is associated.

These regulations would provide that parents and authorized representatives of children in child care centers have access to information about the criminal record exemption process so they can make informed decisions about the placement of their children in licensed child care centers. Licensees must provide the parents and authorized representatives with the LIC 995E (8/02), Caregiver Background Check Process form.

The California Department of Social Services (CDSS) is incorporating by reference, pursuant to the California Code of Regulations, Title 1, Chapter 1, Section 20, the LIC 995E, Caregiver Background Check Process form, Rev. 8/02. This form is not printed in the California Code of Regulations or the CDSS Manual of Policies and Procedures because it would be cumbersome and impractical. However, this form is available during the 45-day public comment period from the Department at (916) 657-2586.

Section 101218.1(e) [Renumbered from Section 101218.1(b)(1)]

Specific Purpose:

The purpose of this amendment is to require that parents and authorized representatives are provided written notification of their rights and the caregiver background check process form.

Factual Basis:

This amendment is necessary to require that licensees only use the Department's forms for notification of parental rights. The LIC 995 (8/02), Notification of Parents' Rights and the LIC 995E (8/02), Caregiver Background Check Process form must be provided to the parent and authorized representatives at the time each child is accepted into care and for all children in care on August 7, 2002. The use of these specific forms is necessary to ensure that parents and authorized representatives receive correct information regarding their rights.

The California Department of Social Services (CDSS) is incorporating by reference, pursuant to the California Code of Regulations, Title 1, Chapter 1, Section 20, the LIC 995, Notification of Parents' Rights, Rev. 8/02 and the LIC 995E, Caregiver Background Check Process form, Rev. 8/02. These forms are not printed in the California Code of Regulations or the CDSS Manual of Policies and Procedures because it would be cumbersome and impractical. However, these forms are available during the 45-day public comment period from the Department at (916) 657-2586. In addition, the previous revision of the LIC 995 (Rev. 7/97), is available during the 45-day public comment period from the Department at (916) 657-2586.

Section 101218.1(e)(1) [Renumbered from Section 101218.1(b)(1)(A)]

Specific Purpose:

The purpose of this amendment is to require that licensees obtain from the parent and authorized representative a signed and dated bottom portion of the LIC 995 verifying receipt of the Notification of Parents' Rights and the LIC 995E, Caregiver Background Check Process form.

Factual Basis:

This amendment is necessary to require that the licensees obtain from parents and authorized representatives a signed and dated bottom portion of the LIC 995 verifying that they have received notification of their rights and the caregiver background check process form. Requiring the licensee to retain the parent and authorized representative's signature is necessary so that the Department is able to verify whether or not a licensee complied with this requirement.



Existing Section 101218.1(b)(2) (Repealed)

Specific Purpose/Factual Basis:

This section is being repealed as it is a duplication of a new requirement at Section 101218.1(c). The requirement to post the PUB 393 (8/02), Child Care Center Notification of Parents' Rights poster replaces the requirement to post the LIC 995 (7/97).

Section 101218.1(e)(2) (New)

Specific Purpose:

The purpose of this section is for consistency and to clarify that whenever a parent or authorized representative makes a request regarding persons associated with the child care center that have received a criminal record exemption, the licensee must document the child's file and request that the parent or authorized representative also initial the notation documenting the request.

Factual Basis:

This section is necessary to require that each time a parent or authorized representative inquires about any individuals associated with the child care center that have received a criminal record exemption, the request is noted, dated and initialed by the licensee and that the child care center request the parent or authorized representative also initial the notation documenting the request. This notation is necessary so that the Department is able to verify whether or not a licensee complied with the requirement to inform parents or authorized representatives, upon request, the name of anyone associated with the child care center who has been granted a criminal record exemption.

Section 101218.1(e)(3) (New)

Specific Purpose:

The purpose of this section is to clarify that failure by the licensee to comply with these regulations will result in an assessment of civil penalties.

Factual Basis:

Failure by the licensee to comply with the requirements in Sections 101218.1(b)(8), (c), (d), (e), (e)(1), or (e)(2), shall subject the licensee to civil penalties pursuant to Section 101195. Assessment of civil penalties is necessary to ensure compliance with the regulatory requirements.

#### Section 102419 (Title)

##### Specific Purpose:

The purpose of this amendment is to add to the title of this section “and Parental and Authorized Representative's Rights.”

##### Factual Basis:

The amendment is necessary because the title should reflect that this section includes not only admission procedures but also a list of parental and authorized representative's rights. The amendment will make it easier for parents, authorized representatives, and licensees to locate this information in the regulations.

#### Section 102419(a)

##### Specific Purpose:

The purpose of this amendment is to split Section 102419(a) into Sections 102419(a) and (a)(1) and to add to proposed Section 102419(a) the phrases "parents or" and "which include, but are not limited to, the following."

##### Factual Basis:

This amendment is necessary for consistency and clarity in the reformatting of this section and to specify that the licensee shall inform parents and authorized representatives of their rights.

#### Section 102419(a)(1)

##### Specific Purpose:

The purpose of this amendment is to inform parents and authorized representatives of children in any family child care home of their right to enter and inspect the family child care home.

##### Factual Basis:

This amendment is necessary to specify that the licensee shall inform parents and authorized representatives of their right to enter and inspect the family child care home in accordance with Health and Safety Code Section 1596.857. This right is now listed under Section 102419(a) along with other parental and authorized representatives rights information that were previously only listed in the Health and Safety Code. These requirements are necessary so that licensees, the public, parents, and authorized representatives may be able to locate in one area of the regulations, all of the parental and authorized representatives rights information.

#### Section 102419(a)(2) (New)

##### Specific Purpose:

The purpose of this section is to inform parents and authorized representatives of children in any family child care home of their right to file a complaint against the licensee with the local licensing office.

##### Factual Basis:

This section is necessary to specify that the licensee shall inform parents and authorized representatives of their right to file a complaint against a licensee with the licensing office in accordance with Health and Safety Code Section 1596.853. This right is listed under Section 102419(a) along with other parental and authorized representatives rights information that were previously only listed in the Health and Safety Code. These requirements are necessary so that licensees, the public, and parents may be able to locate in one area of the regulations, all of the parental and authorized representatives rights information.

#### Section 102419(a)(3) (New)

##### Specific Purpose:

The purpose of this section is to inform parents and authorized representatives of children in any family child care home of their right to review the family child care home's public file kept by the local licensing office.

##### Factual Basis:

This section is necessary to specify that the licensee shall inform parents and authorized representatives of their right to review the family child care home's public file kept by the local licensing office in accordance with Health and Safety Code Section 1596.859. This right is listed under Section 102419(a) along with other parental and authorized representatives rights information that were previously only listed in the Health and Safety Code. These requirements are necessary so that licensees, the public, authorized representatives and parents may be able to locate in one area of the regulations, all of the parental and authorized representatives rights information.

#### Section 102419(a)(4) (New)

##### Specific Purpose:

The purpose of this section is to inform parents and authorized representatives of children in any family child care home of their right to review at the family child care home, reports of licensing visits and substantiated complaints against the licensee made during the last three years.

Factual Basis:

This section is necessary to specify that the licensee shall inform parents and authorized representatives of their right to review at the family child care home, reports of licensing visits and substantiated complaints against the licensee made during the last three years in accordance with Health and Safety Code Section 1596.859. This right is listed under Section 102419(a) along with other parental and authorized representatives rights information that were previously only listed in the Health and Safety Code. These requirements are necessary so that licensees, the public, parents and authorized representatives may be able to locate in one area of the regulations, all of the parental and authorized representatives rights information.

Section 102419(a)(5) (New)

Specific Purpose:

The purpose of this section is to inform parents and authorized representatives of children in any family child care home of their right to complain to the local licensing office and inspect the family child care home without discrimination or retaliation.

Factual Basis:

This section is necessary to specify that the licensee shall inform parents and authorized representatives of their right to complain to the local licensing office and inspect the family child care home without discrimination or retaliation in accordance with Health and Safety Code Section 1596.857. This right is listed under Section 102419(a) along with other parental and authorized representative rights information that were previously only listed in the Health and Safety Code. These requirements are necessary so that licensees, the public, parents and authorized representatives, may be able to locate in one area of the regulations, all of the parental and authorized representatives rights information.

Section 102419(a)(6) (New)

Specific Purpose:

The purpose of this section is to inform parents and authorized representatives of children in any family child care home of their right to request in writing that a parent not be allowed to visit the child or take the child from the family child care home pursuant to a court order.

Factual Basis:

This section is necessary to protect children in family child care homes from being taken by a parent in violation of a court order pursuant to Health and Safety Code Section 1596.857. This right is listed under Section 102419(a) along with other parental and authorized representatives rights information that were previously only listed in the Health and Safety Code. These requirements are necessary so that licensees, the public, parents and authorized

representatives, may be able to locate in one area of the regulations, all of the parental rights information.

#### Section 102419(a)(7) (New)

##### Specific Purpose:

The purpose of this section is to inform parents and authorized representatives of children in any family child care home of their right to receive from the licensee notification of the name, address, and telephone number of the local licensing office.

##### Factual Basis:

This section is necessary to specify that the licensee shall inform parents and authorized representatives of their right to receive notification of the name, address, and telephone number of the local licensing office. This right is listed under Section 102419(a) along with other parental and authorized representative rights information that were previously only listed in the Health and Safety Code. These requirements are necessary so that licensees, the public, parents and authorized representatives, may be able to locate in one area of the regulations, all of the parental and authorized representatives rights information.

#### Section 102419(a)(8)

##### Specific Purpose:

The purpose of this section is to inform parents and authorized representatives of children in any family child care home of their rights to be informed by the licensee, upon request, the name of any adults associated with the family child care home, that have been granted a criminal record exemption, and the type of his or her association to the family child care home. In addition, the licensee is to inform the parents and authorized representatives that the name of the person may also be obtained by contacting the local licensing office.

##### Factual Basis:

As a result of a lawsuit filed against the CDSS by CBS Broadcasting Inc., and in accordance with the Court of Appeal of the State of California, Second Appellate District's decision filed August 21, 2001, the Department will now inform the public, upon request, the name of anyone who has been granted a criminal record exemption and the child care center with which the individual is associated.

These emergency regulations would provide that parents and authorized representatives of children in family child care homes have access to information about child care staff who have been granted a criminal record exemption, to allow them to make informed decisions regarding the placement and continued care of their children in family child care home.

This right is listed under Section 102419(a) along with other parental and authorized representatives rights. These requirements are necessary so that licensees, the public,

parents and authorized representatives, may be able to locate in one area of the regulations, all of the parental and authorized representative rights information.

#### Section 102419(b) (New)

##### Specific Purpose:

The purpose of this section is to require that the licensee post a poster with the same information previously provided in proposed repealed Section 102419(a)(3).

##### Factual Basis:

The Department has made a policy decision that requiring the licensee to prominently display a poster advising parents and authorized representatives of their rights (PUB 394 (8/02), Family Child Care Home Notification of Parents' Rights) is more appropriate than requiring the licensee to post a form with this information.

The California Department of Social Services (CDSS) is incorporating by reference, pursuant to the California Code of Regulations, Title 1, Chapter 1, Section 20, the PUB 394, Family Child Care Home Notification of Parents' Rights, Rev. 8/02. This form is not printed in the California Code of Regulations or the CDSS Manual of Policies and Procedures because it would be cumbersome and impractical. However, this form is available during the 45-day public comment period from the Department at (916) 657-2586.

#### Section 102419(c) (New)

##### Specific Purpose:

The purpose of this section is to require that licensees shall provide parents and authorized representatives with a form describing the caregiver background check process.

##### Factual Basis:

This section is necessary to require that licensees only use the Department's form for the caregiver background check process. The LIC 995E (8/02), Caregiver Background Check Process form must be provided to the parent and authorized representatives at the time each child is accepted into care and for all children in care on August 7, 2002 as specified in proposed Section 102419(d). The use of this specific form is necessary to ensure that parents and authorized representatives receive correct information.

The California Department of Social Services (CDSS) is incorporating by reference, pursuant to the California Code of Regulations, Title 1, Chapter 1, Section 20, the LIC 995E, Caregiver Background Check Process form, Rev. 8/02. This form is not printed in the California Code of Regulations or the CDSS Manual of Policies and Procedures because it would be cumbersome and impractical. However, this form is available during the 45-day public comment period from the Department at (916) 657-2586.

Section 102419(d) [Renumbered from Section 102419(a)(1)]

Specific Purpose:

The purpose of this amendment is to require that parents and authorized representatives are provided with written notification of their rights and caregiver background check process form.

Factual Basis:

This amendment is necessary to require that licensees only use the Department's forms for notification of parental rights. The LIC 995A (8/02), Family Child Care Home Notification of Parents' Rights and the LIC 995E (8/02), Caregiver Background Check Process form must be provided to the parent and authorized representatives at the time each child is accepted into care and for all children in care on August 7, 2002. The use of these specific forms is necessary to ensure that parents and authorized representatives receive correct information regarding their rights.

The California Department of Social Services (CDSS) is incorporating by reference, pursuant to the California Code of Regulations, Title 1, Chapter 1, Section 20, the LIC 995A, Notification of Parents' Rights, Rev. 8/02 and the LIC 995E, Caregiver Background Check Process form, Rev. 8/02. These forms are not printed in the California Code of Regulations or the CDSS Manual of Policies and Procedures because it would be cumbersome and impractical. However, these forms are available during the 45-day public comment period from the Department at (916) 657-2586.

Section 102419(d)(1) [Renumbered from Section 102419(a)(2)]

Specific Purpose:

The purpose of this amendment is to require that licensees obtain from the parent and authorized representative a signed and dated bottom portion of the LIC 995A verifying receipt of the Family Child Care Home Notification of Parents' Rights and the LIC 995E, Caregiver Background Check Process form.

Factual Basis:

This amendment is necessary to require that the licensees obtain from parents and authorized representatives a signed and dated bottom portion of the LIC 995A verifying that they have received notification of their rights and the caregiver background check process form. Requiring the licensee to retain the parent and authorized representative's signature is necessary so that the Department is able to verify whether or not a licensee complied with this requirement.

Existing Section 102419(a)(3) (Repealed)

Specific Purpose/Factual Basis:

This section is being repealed as it is a duplication of a new requirement at Section 102419(b). The requirement to post the PUB 394 (8/02), Family Child Care Home Notification of Parents' Rights poster replaces the requirement to post the notice form.

#### Section 102419(d)(2)

##### Specific Purpose:

The purpose of this section is for consistency and clarity that whenever a parent or authorized representative makes a request regarding persons associated with the family child care home that have received a criminal record exemption, the licensee must document the child's file and request that the parent or authorized representative also initial the notation documenting the request.

##### Factual Basis:

This section is necessary to require that each time a parent or authorized representative inquires about any individuals associated with the family child care home that have received a criminal record exemption, the request is noted, dated and initialed by the licensee and that the family child care home request the parent or authorized representative also initial the notation documenting the request. This notation is necessary so that the Department is able to verify whether or not a licensee complied with the requirement to inform parents or authorized representatives, upon request, the name of anyone associated with the family child care home who has been granted a criminal record exemption.

#### Section 102419(d)(3) (Reserved)

##### Specific Purpose/Factual Basis:

This section is reserved. Following the public hearing, the Department will replace "Reserved" with regulatory language or a section title.



Section 102419(d)(3)(A) (New)

Specific Purpose:

The purpose of this section is to clarify that failure by the licensee to comply with specified regulations will result in an assessment of civil penalties.

Factual Basis:

Failure by the licensee to comply with the requirements in Sections 102419(a)(8), (b), (c), (d), (d)(1), or (d)(2), shall subject the licensee to civil penalties. The assessment of civil penalties is necessary to ensure compliance with the regulatory requirements and is consistent with Health and Safety Code Section 1597.56.

Section 102419(d)(3)(B) (New)

Specific Purpose:

The purpose of this section is to clarify that failure by the licensee to comply with specified regulations will result in an assessment of civil penalties.

Factual Basis:

When a licensee subsequently violates any provision of Sections 102419(a)(8), (b), (c), (d), (d)(1), or (d)(2) within 12 months of the initial citation, the Department shall assess a civil penalty of \$150 plus an assessment of \$50 per day until the deficiency is corrected. The assessment of civil penalties is necessary to ensure compliance with the regulatory requirements and is consistent with Health and Safety Code Section 1597.56.

Section 102419(d)(3)(C) (New)

Specific Purpose:

The purpose of this section is to clarify that failure by the licensee to comply with specified regulations will result in an assessment of civil penalties.

Factual Basis:

When a licensee violates any provision of Sections 102419(a)(8), (b), (c), (d), (d)(1), or (d)(2) within 12 months of the citation and assessment in Section 102419(b)(3)(B), the Department shall assess a civil penalty of \$150 plus an assessment if \$150 per day until the deficiency is corrected. This section is consistent with Health and Safety Code Section 1597.56

Section 102419(e) [Renumbered from Section 102419(b)]

Specific Purpose:

The purpose of this amendment is to replace "responsible" with "parent or" and to add the phrase "family child care" for clarity and consistency.

Factual Basis:

This amendment is necessary for clarity and consistency. Section 102419(b) is renumbered to Section 102419(e) to accomodate the reorganization of Section 102419. This proposed amendment clarifies that the regulation applies to parents and authorized representatives.

Section 102419(e)(1) [Renumbered from Section 102419(b)(1)]

Specific Purpose:

The section is amended to add the phrases "family child care" and "the parent or" for clarity and consistency.

Factual Basis:

This amendment is necessary for clarity and consistency.

Section 102419(f) [Renumbered from Section 102419(c)]

Specific Purpose:

The purpose of this amendment isto make editorial changes and to add the phrases "parent or" and "family child care" for clarity and consistency.

Factual Basis:

This amendment is necessary for clarity and consistency. Section 102419(c) is renumbered to Section 102419(f) to accomodate the reorganization of Section 102419. This proposed amendment clarifies that the regulation applies to parents and authorized representatives and specifically references family child care homes.

Section 102419(f)(1) [Renumbered from Section 102419(c)(1)]

Specific Purpose:

The purpose of this amendment is to replace "family child care home" with the "licensee", to add the phrase "against any child or any child's parent or authorized representative," and to make other editorial changes for clarity and consistency.

Factual Basis:

This amendment is necessary to clarify if the licensee denies a parent or authorized representative the right to enter the family child care home or retaliates against any child, parent or authorized representative the Department will issue a warning citation to the licensee. Also, editorial changes are proposed for clarity and consistency.

Section 102419(f)(3)(B) [Renumbered from Section 102419(c)(3)(B)]

Specific Purpose:

This section is amended to repeal the words "noncustodial," the phrase "or guardians" to replace "responsible" with "parent or," and to add the phrase "who is subject to a court order denying him/her contact with the child."

Factual Basis:

This amendment is necessary to clarify that a parent who is subject to a court order denying him or her contact with a child shall be denied access to the family child care home by the licensee. Also, editorial changes are proposed for clarity and consistency.

Section 102419(g) [Renumbered from Section 102419(d)]

Specific Purpose:

The purpose of this amendment is to add a specific form, the LIC 995A (8/02), Family Child Care Home Notification of Parents' Rights and to add the phrase "parent or" for clarity and consistency.

Factual Basis:

This amendment is necessary for clarity and consistency. This proposed regulation clarifies that if the parent refuses to sign the LIC 995A (8/02), Family Child Care Home Notification of Parents' Rights, the licensee must make a note to that effect in the child's file.

The California Department of Social Services (CDSS) is incorporating by reference, pursuant to the California Code of Regulations, Title 1, Chapter 1, Section 20, LIC 995A, Family Child Care Home Notification of Parents' Rights, Rev. 8/02. This form is not printed in the California Code of Regulations or the CDSS Manual of Policies and Procedures because it would be cumbersome and impractical. However, this form is available during the 45-day public comment period from the Department at (916) 657-2586.

Section 102421(a)

Specific Purpose:

The purpose of this amendment is to correct a cross-reference to a section referred to for children's records.

Factual Basis:

This amendment is necessary to make editorial changes to reflect the correct regulation for children's records. Section 102419(a)(2) has been changed to Section 102419(d).

Section 102421(c)

Specific Purpose:

This section is amended to replace "family child care home" with "licensee" and to add the phrase "parent or."

Factual Basis:

This amendment is necessary to make editorial changes for clarity and consistency.

b) Identification of Documents Upon Which Department Is Relying

CBS, INC v. The Superior Court of Los Angeles County, State Department of Social Services (2001) 91 Cal.App.4<sup>th</sup> 892

c) Local Mandate Statement

These regulations do not impose a mandate on local agencies or school districts. There are no state-mandated local costs in these regulations which require state reimbursement under Section 17500, et seq. of the Government Code.

d) Statement of Alternatives Considered

CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed action.

CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would lessen any adverse impact on small business.

e) Statement of Significant Adverse Economic Impact On Business

CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.